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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|--------------------------|------------------|
| 09/750,948 | 12/28/2000 | Perry G. Vincent | 23689-210 | 7545 |
| 26890 | 7590 | 11/22/2004 | EXAMINER | |
| JAMES M. STOVER NCR CORPORATION 1700 SOUTH PATTERSON BLVD, WHQ4 DAYTON, OH 45479 | | | MEINECKE DIAZ, SUSANNA M | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3623 | |

DATE MAILED: 11/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|--------------------------------|-----------------|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/750,948 | VINCENT, PERRY G. <i>MW</i> | |
| | Examiner | Art Unit | Susanna M. Diaz |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 04 October 2004.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1 and 4-20 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1 and 4-20 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

1. This Final Office action is responsive to Applicant's amendment filed October 4, 2004.

Claims 1, 4, and 16 have been amended.

Claims 2 and 3 have been cancelled.

Claims 1 and 4-20 are pending.

2. The previously pending rejection under 35 U.S.C. § 101 is withdrawn in response to Applicant's claim amendments.

Response to Arguments

3. Applicant's arguments filed October 4, 2004 have been fully considered but they are not persuasive.

Applicant argues, "Neither one of NCR Corporation's Customer Relationship Management suite/portfolio, Relationship Optimizer™ or InterRelate™ products includes all the elements recited in any one of claims 11 through 15. None of these products includes, and none of the cited product announcements discloses, a recommendation engine as recited in each one of claims 11 through 15." (Pages 7-8 of Applicant's response) The Examiner respectfully disagrees. The NCR Customer Relationship Management suite/portfolio, including Relationship Optimizer™ and InterRelate+™, is in and of itself a set of one or more data analysis tools comprising executable instruction since they form a collection of software tools. Furthermore, these

tools clearly perform the type of pattern-based analysis and recommendation of interaction strategies recited in the claims. For example, "NCR's Next Generation Software Makes True Customer Relationship Management a Reality" states:

The new NCR Relationship Optimizer software is a key part of the company's commitment to helping businesses 'transform transactions into relationships.' It builds on the company's well-established leadership in designing and implementing customer-center **Teradata® Warehouses for analyzing and predicting consumer behavior...**

NCR's Relationship Optimizer allows businesses to **react quickly and intelligently to customer events.** For example, during on-site testing of the software, call center agents were able to **start a dialog with a customer when they detected an uncharacteristic transaction...**

NCR Relationship Optimizer enables a business to **respond to changes in customer behavior with targeted communications, and then record, analyze and react to each customer's unique response.** As a result, businesses are able to target hundreds, thousands, or even millions of customers with individual offerings at the right time and through consumers' preferred channels...

NCR Relationship Optimizer easily maintains millions of simultaneous dialogs, oversees customer 'touch points' or channels, **identifies changes in consumer behavior, prioritizes leads, enables effective deployment of responses, and handles the necessary on-going assessment and refinement of communication targeting and execution...** (Emphasis added, ¶¶ 5, 9, 13, 15)

In conclusion, Applicant's arguments are not persuasive; therefore, the rejections under 35 U.S.C. § 102 are maintained.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 and 4-20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by the NCR Customer Relationship Management suite/portfolio, including Relationship Optimizer™ and InterRelate+™, as disclosed in the following references:

“NCR’s Next Generation Software Makes True Customer Relationship Management a Reality” (July 26, 1999);
“NCR Selects Quadstone as Preferred Analytical Workbench in Support of New Customer Relationship Management Solution” (September 27, 1999);

“New NCR Suite of Solutions Helps Airlines, Insurance Companies Build and Manage More Profitable Customer Relationships” (October 4, 1999);

Sweat et al., “Instant Marketing” (August 2, 1999);

“NCR to Help Customer Focus Switch” (September 1999);

“New Software Sets Up Banks for Tailored Customer Marketing” (August 12, 1999);

“NCR Corporation” (July 28, 1999);

“Data Collector’s Items” (September 30, 1999);

“NCR Corporation and MicroStrategy Ink \$52.5 Million Agreement” (October 4, 1999);

"NCR Becomes Strategy.com Master Affiliate" (October 4, 1999); and

Hammond, "NCR, MicroStrategy to Share Data Technologies" (October 11, 1999).

6. Claims 1 and 4-20 are rejected under 35 U.S.C. 102(b) based upon a public use or sale of the invention. As explained in the art rejection above, claims 1-20 are clearly anticipated by the NCR Customer Relationship Management suite/portfolio, including Relationship Optimizer™ and InterRelate+™, as disclosed in the following references:

"NCR's Next Generation Software Makes True Customer Relationship Management a Reality" (July 26, 1999);
"NCR Selects Quadstone as Preferred Analytical Workbench in Support of New Customer Relationship Management Solution" (September 27, 1999);
"New NCR Suite of Solutions Helps Airlines, Insurance Companies Build and Manage More Profitable Customer Relationships" (October 4, 1999);
Sweat et al., "Instant Marketing" (August 2, 1999);
"NCR to Help Customer Focus Switch" (September 1999);
"New Software Sets Up Banks for Tailored Customer Marketing" (August 12, 1999);
"NCR Corporation" (July 28, 1999);
"Data Collector's Items" (September 30, 1999);
"NCR Corporation and MicroStrategy Ink \$52.5 Million Agreement" (October 4, 1999);

"NCR Becomes Strategy.com Master Affiliate" (October 4, 1999); and Hammond, "NCR, MicroStrategy to Share Data Technologies" (October 11, 1999).

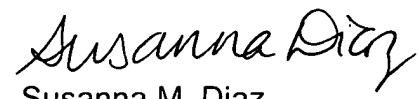
NCR Corporation is the assignee of the instant application and the NCR Customer Relationship Management suite/portfolio, including Relationship Optimizer™ and InterRelate+™, were publicly used and sold more than one year prior to Applicant's filing date of December 28, 2000. Furthermore, Applicant's own specification admits that the invention is based on "NCR Corporation's InterRelate+™ customer relationship management software" and "NCR's Relationship Optimizer™ marketing automation solution" (see page 6 of the specification).

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna M. Diaz whose telephone number is (703) 305-1337. The examiner can normally be reached on Monday-Friday, 9 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Susanna M. Diaz
Primary Examiner
Art Unit 3623
November 17, 2004